

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

PATRICK C. JARMAN,	:	CIVIL ACTION NO. 1:13-CV-0932
	:	
Plaintiff,	:	(Chief Judge Conner)
	:	
v.	:	
	:	
CAPITAL BLUE CROSS and	:	
CAPITAL ADVANTAGE INSURANCE	:	
COMPANY,	:	
	:	
Defendant.	:	

ORDER

AND NOW, this 19th day of February, 2014, upon consideration of the motion (Doc. 9) to dismiss plaintiff's complaint (Doc. 1) by Capital Blue Cross and Capital Advantage Insurance Company ("Capital") brought pursuant to Federal Rules of Civil Procedure 12(b)(1) and (b)(6), and for all of the reasons set forth by the court in the accompanying memorandum, it is hereby ORDERED that:

1. Capital's motion (Doc. 9) is GRANTED in part, DENIED in part, and DEFERRED in part as follows:
 - a. The motion is GRANTED to the extent it seeks dismissal of Count II of plaintiff's complaint in its entirety and Count I of plaintiff's complaint to the extent it seeks retrospective injunctive relief.
 - b. The motion is DENIED with respect to Count I to the extent that count pertains to plaintiff's request for prospective injunctive relief under Section 502(a)(3).
 - c. The motion (Doc. 9) is DEFERRED with respect to Count I to the extent that count seeks legal damages pursuant to Section 502(a)(1)(B) pending the results of jurisdictional discovery.

2. Count II of plaintiff's complaint (Doc. 1) is DISMISSED with prejudice.
3. The parties are granted 60 days from the date of this order to conduct discovery **limited to the jurisdictional issues identified in the court's memorandum.**
4. The parties are granted leave to file briefing following the close of the limited jurisdictional discovery granted in paragraph 3 as follows:
 - a. Plaintiff shall file and serve a supplemental brief in opposition to defendant's motion to dismiss (Doc. 9) within twenty (20) days of the close of jurisdictional discovery.
 - b. Defendants shall file and serve a supplemental reply brief in support of its motion to dismiss (Doc. 9) within twenty (20) days of receipt of the plaintiff's brief.
 - c. Length and Structure of Supplemental Briefs. The briefs shall each be limited to twenty (20) pages in length. The briefs need not include a procedural history, statement of facts, standard of review, or any other material duplicating the contents of the parties' previous filings. Legal arguments that have been fully discussed in previous materials shall be reiterated only to the extent necessary to provide context for the parties' evidentiary argument. All other local rules shall apply.

/s/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania